June 16, 2008

E-19J

David E. Wresinski, Administrator
Project Planning Division
Bureau of Transportation Planning
Michigan Department of Transportation
Murray D. Van Wagoner Building
P.O. Box 30050
Lansing, Michigan 48909

Re: **Final Environmental Impact Statement for the US-131 Improvement Study, From Elkhart County, Indiana, to St. Joseph County, Michigan EIS No. 20080183**

Dear Mr. Wresinski:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (U.S. EPA) has reviewed the Final Environmental Impact Statement (EIS) for proposed transportation improvements along US-131. The portion of US-131 under study consists of a one-mile wide corridor extending 17 miles north from the Indiana Toll Road in Elkhart County, Indiana, to a logical terminus one-mile north of Cowling Road in St. Joseph County, Michigan. The Final EIS identifies Preferred Alternative 5 (PA-5) as the selected alternative for the proposed project.

The Preferred Alternative includes a bypass of the Village of Constantine, at-grade intersections, a new two-lane bridge crossing of the St. Joseph River, two 12-foot wide truck climbing lanes in each direction south of Drummond Road, and various minor improvements to bring the existing alignment up to current Michigan Department of Transportation (MDOT) standards. The Preferred Alternative will utilize more of the existing alignment than any other freeway alternative except PA-2. The Preferred Alternative will also reduce truck traffic and its associated noise and vibration in downtown Constantine, improve intersection geometrics, and have positive impacts on pedestrian and non-motorized vehicle movement through downtown Constantine.

The U.S. EPA commented on the Draft EIS on May 13, 2005. At that time, we expressed concerns with practical alternatives PA-3 and PA-4 due to potential direct and indirect impacts to high quality wetlands as well as three new river crossings in the study area. We also expressed concerns with PA-1 and PA-2 due to the level of wetland information provided and potential impacts to trout habitat and wildlife corridors along the rivers, as well as three new river crossings in the study area. We stated in our comment letter, that we understood PA-5 and PA-5 MOD to be the two alternatives which would result in the least environmental impacts of all practical alternatives evaluated in the Draft EIS. However, we also stated in our letter that we had concerns with PA-5 and PA-5 MOD relating to: 1) the insufficient level of wetland information provided in the Draft EIS, 2) project impacts to trout habitat in the St. Joseph

River (River), 3) wildlife corridor impacts for the three rivers in the study area, and 4) migratory bird impacts. Information provided in the Final EIS addresses our concerns related to wetland information and potential project impacts to trout in the River. We offer the following recommendations to further reduce environmental impacts.

Wetlands

Information provided in the Final EIS addresses our concerns regarding the level of information necessary to understand potential wetland impacts. The Final EIS indicates that a total of 1.5 acres of wetland impacts in two wetland complexes will be mitigated by the use of a wetland preservation bank site known as Tamarack Fen. Tamarack Fen was purchased by the Nature Conservancy using MDOT funds to satisfy potential wetland and endangered species mitigation requirements for a prior MDOT project. Changes to that prior project eliminated the need for wetland credits from the fen. MDOT decided to utilize the wetland acreage available in the fen to provide compensatory acreage for wetland impacts associated with this and future projects. The fen is located in the St. Joseph River watershed.

We have one recommendation concerning the remaining wetland acreage of the two complexes which will not be directly impacted by PA-5. Wetland Complex 1 is approximately four acres in size, with 0.3 acres within the study area. Wetland Complex 2 is approximately 15 acres in size, with 1.2 acres within the study area. We are concerned that the hydrology of these wetlands may be negatively impacted by drainage modifications. Because hydrology is a major factor contributing to the function and value of a wetland, we recommend discussing the need to monitor the remaining portions of these two wetland complexes with the Michigan Department of Environmental Quality (MDEQ) at the permit stage to determine if changes in hydrology will occur as a result of the proposed project. If harmful changes in hydrology do occur as a result of this project, we recommend corrective action or mitigation for lost functions and values.

Trout Habitat in the St. Joseph River

We understand that, based on discussions between MDOT and MDEQ, MDOT has agreed to bridge the entire floodplain and wetland complex. In addition, the Final EIS indicates that stormwater runoff from the new river crossing will be routed overland through vegetated swales or other vegetative controls into containment areas prior to outletting into the river. This will minimize pollutants entering the river and indirect impacts to trout and other fish species in the river. This information responds to our concerns related to trout impacts. However, we have one recommendation that could further reduce potential impacts to trout in the river.

We recommend MDOT coordinate with the Michigan Department of Natural Resources (MDNR) Fisheries Division to determine if seasonal restrictions for working in the river would benefit spawning trout. The appropriate time period may already be covered by the time restriction MDOT has committed to in order to avoid the river redhorse spawning migration period, but this is not clear from the information provided in the Final EIS. Lastly, MDOT should clarify what is meant by the phrase “to the extent possible” as it is used in the construction activity time restriction to avoid river redhorse spawning migration periods (generally late March to early June).

Wildlife Corridor and Migratory Bird Impacts

We acknowledge that MDOT has agreed to bridge the entire floodplain and wetland complex, which will reduce impacts to the wildlife corridors along both sides of the river channel. However, the new crossing will result in the loss of 3.59 acres of riparian habitat, which is used by many species including the prothonotary warbler, a state species of special concern. We expect the proposed project will result in adverse impacts to wildlife resources, including migratory birds. To reduce impacts to breeding

individuals, and to comply with the Migratory Bird Treaty Act of 1918, we recommend MDOT coordinate with the MDNR Wildlife Division to determine the appropriate seasonal restriction for tree removal along the river's floodplain. We also recommend MDOT coordinate with MDNR to select an appropriate location and voluntarily mitigate for riparian impacts by planting native trees at a 1:1 ratio along the river's corridor.

Thank you for the opportunity to review and comment on this Final EIS. We urge MDOT to commit to seasonal restrictions and discussing the necessity of post-project wetland monitoring as stated in this letter. Please send a copy of the Record of Decision for this project to our office once it has been signed. If you have any questions concerning these comments, please contact Kathleen Kowal of my staff at (312) 353-5206.

Sincerely,

/s/ Kenneth A. Westlake, June 16, 2008

Kenneth A. Westlake, Supervisor
NEPA Implementation
Office of Enforcement and Compliance Assurance

cc: Gerald Fulcher, MDEQ
Lori Sargent, MDNR, Wildlife Division
Jay Wesley, MDNR, Fisheries Division